



**FINAL REPORT**

**FOR THE**

**RULE OF LAW PROGRAM**

**IN CROATIA**

**MAY 1, 2000 – MAY 31, 2004**

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## **I. AWARD INFORMATION**

On May 1, 2000, USAID awarded ABA/CEELI Associate Cooperative Agreement No. 160-A-00-00-00104-00 under the Leader with Associate agreement #ENI-A-00-00-00003-00. This award granted ABA/CEELI \$1,545,473 to implement its Rule of Law Program in Croatia. The award period concluded May 31, 2004. This report provides a brief description of the ABA/CEELI activities and accomplishments under each workplan area of this award. A full description of all activities undertaken can be found in the quarterly reports, which can be provided upon request.

## **II. PROJECT SUMMARY**

### **HIGHLIGHTS OF MAIN ACHIEVEMENTS:**

- Introduction of new training methods that will be institutionalized in the curriculum of the Judicial Academy;
- Greatly increase judicial ethics awareness among the entire judiciary and contribute to movement toward enforceability;
- Disseminate JRI assessment of the Croatian judiciary, a benchmark for reform;
- Improvement of journalists' reporting on judicial matters and of the relationship between judges and journalists, contributing to greater understanding and credibility of the justice system and promotion of access to justice;
- Introduction of ADR and encouragement of the establishment of mediation centers;
- Establishment or strengthening of clinical legal education programs at all four Croatian law faculties with strong indicators of sustainability;
- Creation of a consortium of NGOs to continue promoting judicial reform.

### **A. Judges Association and Judicial Training and Education**

#### *Proposal Objectives:*

- 1) The development of active, independent judges' association that promotes the interest of the judiciary and judicial reform; and
- 2) The creation of a judicial training and education mechanism that is largely controlled by judges and provides them with comprehensive training and an effective continuing legal education regime.

#### *Accomplishments:*

### **ACJ Institution-building**

Despite CEELI's best efforts, the Association of Croatian Judges (ACJ) has made incomplete progress towards becoming an efficient, well organized and self-sustaining organization. CEELI attempted to work with the ACJ on institutional reform issues and received significant resistance. CEELI's Regional Institution Building Advisor (RIBA) staff met with ACJ President Gredelj and sent him a follow-up letter with finite, concrete suggestions, but never received a response. Given the circumstances, including problematic leadership, CEELI came to believe that further pushing of the institutional reform issue would have been detrimental to and detract from CEELI's other programming efforts. After much deliberation, CEELI and USAID agreed that the institution building objectives and targets be removed from the workplan. However,

CEELI continued to collaborate and work with the ACJ on *ad hoc* projects throughout the remainder of the workplan.

## **Judicial Training**

### **Train-the-Trainers**

In October 2000, CEELI conducted a four-day Train-the-Trainers (TTT) workshop that would set the tone for the rest of CEELI's judicial training programs throughout the grant period. With the help of the Assistant Minister of Justice, the ACJ President and various other consultations, CEELI identified and trained approximately 30 judges. Professor Vizek-Vidovic conducted two sessions; the first, "How People Learn," included motivational learning techniques, models of learning, elements of learning, and the concept of adult learning. The second session, "Teaching", included learning to teach, planning presentations, basic communications (demonstrational and interactive), advantages of two-way communication, the importance of interaction, and student centered teaching. Two CEELI legal specialists presented various teaching models and explained how to plan training presentations.

The impact of this project cannot be overestimated. In helping these judges develop and hone their training skills, CEELI created a cadre of high-capacity trainers. They not only helped CEELI implement its training programs throughout the grant period but also are a legacy of highly knowledgeable trainers on which the Judicial Academy and other continuing legal education programs can call to deliver quality training.

### **Judicial Ethics**

One of CEELI's objectives throughout this grant period was to instill judicial ethics as an important element of judicial training, education and practice. CEELI developed an interactive, case-based judicial ethics training program that exposed nearly all sitting judges in Croatia to the issues associated with judicial ethics. CEELI conducted the program as a series that eventually covered all regions of the country. As CEELI conducted the training, momentum for creating a Court of Honor began to build among judges. They began to see judicial ethics as key to enhancing the independence of the judiciary. One of the lasting legacies of the CEELI rule of law program in Croatia is the acceptance of judicial ethics as an integral element of the judicial profession.

### **Court of Honor**

After months of discussion with the ACJ, in April 2002, Judge Gredelj, ACJ President, announced that the ACJ would establish a Court of Honor to enforce the Code of Judicial Ethics. The ACJ formed a working group and drafted rules for a court of honor and submitted it to the ACJ's managing board.

The board reviewed it and recommended changes, delaying adoption. Although efforts with the ACJ stalled, the current Minister of Justice has expressed a great deal of interest in establishing an enforceable code of judicial ethics, as opposed to the ACJ's voluntary code. CEELI's efforts with the ACJ helped lay the groundwork for the MOJ's current thinking on the issue and will facilitate any framework proposed by the MOJ.

## Conducting the Main Hearing

“Conducting the Main Hearing” was CEELI’s seminal training course of the grant period. CEELI developed this course and began delivering it spring 2001 and continued to use it to train judges with fewer than five years experience throughout the grant period. The training covered the essential legal provisions and role of the judge under new legislation affecting how the trial, or main hearing, of cases would take place. It employed case-base teaching techniques and encouraged interactive learning.

Ultimately, CEELI transferred the course materials and curriculum to the Judicial Academy for its continued use in training young judges. This product is part of CEELI’s legacy in Croatia in that it gives the Judicial Academy a solid curriculum that has been perfected over the last three years in the training of hundreds of young civil and criminal court judges.

The MOJ found this training program so beneficial to young judges that in the five year review process, they began using the completion of the course as a positive indicator in a candidate’s evaluation. Additionally, this model was used to develop a new training course, “Drafting the Verdict.”

## Judicial Academy

At the request of the Assistant Minister of Justice, CEELI began working with the MOJ to establish a judicial education center in Croatia. CEELI took the lead in establishing a working group of Croatian judges and members of the international legal reform community to advise the MOJ. Initially and throughout most of the grant period, the MOJ sent inconsistent messages about its seriousness in pursuing the establishment of an institution for judicial training. Meanwhile, several donors, especially the EU, recognized the lack of judicial training as a significant problem in the Croatian justice system, and CEELI worked with them to leverage progress out of the MOJ to set up what has become known as the Judicial Academy.

In fall 2002, CEELI sent Alan Vajda, then head of the judicial training center, to the CEELI Institute in Prague for a training on judicial training centers, which was attended by other heads of judicial training centers in the region. As a direct result of this exposure to the lessons learned from other training centers, Vajda agreed to give judges themselves and other stakeholders greater involvement in the development and governance of the judicial training center in Croatia.

By early 2003, the MOJ had reconciled itself to the establishment of a judicial training center, and CEELI helped convince it to commit to long-term funding. CEELI continued to participate in assisting the MOJ in establishing a center and co-sponsored all of its training of judges with the MOJ as part of the judicial training center from this point forward. CEELI provided information to aid the debate over the proposed structure of the Judicial Academy. As the rule of law program came to an end, CEELI concentrated its sustainability efforts on ensuring that the programs and methods it has developed, and the lessons it has learned, were incorporated and considered in future programming. In 2004, CEELI also began working closely with the team for the new CARDS Project “Reform of the Judiciary—Support to the Judicial Training Center of Croatia” to ensure the transfer of lessons learned.

## Judicial Reform Index

CEELI conducted its Judicial Reform Index (JRI) at the end of 2001 through the beginning of 2002, publishing it in English and Croatian in April 2002. In the process of implementing the JRI, CEELI conducted more than 30 interviews with Croatian legal professionals from all over the country, the results of which it compiled and analyzed. Not surprisingly, two of the most critical problems confirmed were the case backlog, 1.1 million cases at the time, and the lack of a judicial training system. CEELI sent pre-release copies to USAID, the U.S. Embassy, the Croatian Ministry of Justice and the Supreme Court. The MOJ and the Supreme Court took the analysis very seriously, and the MOJ responded with extensive comments in written form. Both institutions were very supportive, and the President of the Supreme Court referenced several of the JRI factors in statements he made subsequent to its release. During the full release, CEELI sent a copy to each court president as well as those in the legal reform community.

The JRI in some cases simply documented problems in the Croatian judiciary that were well known, but in several cases it pointed out problems and successes that were less recognized. It directly influenced CEELI's judicial reform programming as well as spurred the MOJ to begin addressing some of the problems. It also likely influenced others in the reform community to focus specific programming on problem areas. Both the English and the Croatian versions are available on the CEELI website.

In other countries of the CEE, CEELI has begun a second round of JRI assessments, two years after the first evaluation. The objective is an updated snapshot of the condition of the judiciary and a measure of progress (or backsliding). CEELI respectfully recommends that USAID-Zagreb undertake another JRI assessment.

## Anti-trafficking Awareness

In early 2003, CEELI began its judicial training series on human trafficking awareness. CEELI, in conjunction with Zenska Soba, International Catholic Migration Commission (ICMC), and the judicial training center, trained judges in human trafficking issues. The workshops focused on human trafficking as a serious violation of human rights and opened with the Croatian documentary movie, *Slavery of the 21<sup>st</sup> Century*, which documents human trafficking in Croatia and the region (Slovenia, BiH, Serbia, and Montenegro). The International Center for Migration Policy Development had trained each of the presenters, who covered such topics as the international legal framework, special investigative methods, and other unique aspects of criminal procedure in the context of human trafficking. The problems of trafficked victims, including trauma and protection, were also covered in detail. These case studies covered victim protection and distinguishing between human trafficking and human smuggling. For a majority of the judges, it was the first time they had been exposed to the specific legal issues associated with human trafficking cases.

During June-July 2003, a draft anti-human trafficking law was under consideration. In a workshop during that period, the participants noticed several flaws in the draft law and proposed specific changes. CEELI and the participants then contacted the MOJ, which agreed to incorporate the changes into its draft. The statute was then passed a few days later, incorporating the workshop revisions. If not for the CEELI workshop, there would have been several significant flaws in Croatia's new law on human trafficking – a significant indicator of impact.

## Journalists' Guide through the Croatian Judiciary

In June 2002, CEELI, in conjunction with IREX/ProMedia, USAID, and Press Data (a publishing branch of the Croatian Journalists' Association (CJA)), published the *Journalists' Guide through the Croatian Courts*. The Guide describes the criminal procedure rules from the investigation stage through the appeal process. It was written by Judge Marin Mrcela, a judge on the Zagreb County court, who designed it for journalists. The Guide identifies common mistakes journalists make in covering court proceedings and provides alternatives. For example, the Guide states that it is incorrect to report that a person has been "found innocent," if the case against him/her is dismissed, for example, because the statute of limitations has expired.

The Guide was ready for release in May 2002, however, during that period, the Sabor passed emergency amendments to the criminal procedure code. The consortium agreed to hold the release in order to reflect the changes in the Guide. It was the first publication to include an explanation of the new amendments. The Guide has continued to serve as an important reference for journalists reporting on criminal trials.

CEELI and IREX conducted several training events after the Guide's release, using it as the course text. These training sessions not only served as a way to convey information to journalists, it also sparked inter-professional dialogue between judges and journalists. Traditionally there had been mistrust between the two groups, most of which was based on lack of knowledge and misunderstanding.

## B. Legislative and Regulatory Reform

### *Proposal Objectives:*

- 1) An improved framework of civil procedure and execution of civil judgments laws that reduces litigation inefficiencies; and
- 2) The development of court administration procedures that produce reduced case backlogs and improved caseload management.

### *Accomplishments:*

#### Criminal Trial Benchbook

In spring 2001, CEELI worked with Judge Marin Mrcela to draft, publish and distribute a *Benchbook for Criminal Trial Judges of the Republic of Croatia*. The benchbooks were distributed to all criminal court judges as a professional resource to aid them in increasing their courtroom efficiency.

#### ADR Drafting

CEELI contributed significantly to the drafting of the Croatian Mediation Law through an assessment of the legal system's readiness for ADR and through participation in numerous meetings with the Croatia Bar Association (CBA) to discuss draft language for the legislation. The law passed the Sabor in October 2003.

### **C. Judicial Decision Database**

#### *Program Objectives:*

- 1) The creation of an Internet-based database of judicial decisions available to judges and the public that will improve communication between courts and consistency in judicial decision-making and further public understanding of the judiciary.

#### *Accomplishments:*

##### The Judges Web (TJW)

During this grant period, CEELI continued assisting TJW, which was established in 1999 to create a judicial database linking municipal courts in five under-served municipalities (Vukovar, Beli Manastir, Vinkovci, Sisak and Gline). CEELI's Regional Institution Building Advisor (RIBA) program provided fund-raising training to promote its sustainability. As a direct result of this training, TJW received funding from the Canadian Embassy in late 2000. CEELI also worked with TJW to develop a presentation about the project that was presented to other interested funders and the media. The project can be viewed at: <http://www.sudacka-mreza.hr/>.

### **D. Clinical Legal Education**

#### *Proposal Objectives:*

- 1) The development of sustainable improvements in legal education that provide law students with a better understanding of the practical skills needed to practice law and of the role of lawyers in a democratic society.

#### *Accomplishments:*

CEELI had started clinical legal education programs under a previous grant at a few of the law faculties, but for funding and other reasons they languished for a few years and some closed. During this grant period, CEELI renewed its work with the law faculty and helped establish at least one clinical legal education program at each of the four law faculties, including the Zagreb Law Faculty (a bell-weather that had been resistant to clinical education).

In spring 2002, CEELI brought out an experienced legal clinic director from the U.S. to conduct an assessment of the clinical programs with which CEELI worked. CEELI wanted to insure that its efforts were properly focused and used the results of the assessment to guide its assistance to the programs for the remaining portion of the grant period. Recommendations included:

- exploring methods to provide education and discussion on rule of law, access to justice, and legal ethics;
- offering students the opportunity to participate in moot court competitions and developing career-planning programs;
- developing training and informational materials for mentors and, to the extent possible, developing methods for students to gain experience in meeting and working with clients;
- developing an NGO clinic;
- cooperating among themselves in the development of manuals and other materials and sharing "lessons learned" in a conference format;

- developing relationships with the Ministry of Science, the local bar, and the legislative body if necessary to clarify what role students can play in client representation, and to expand those possibilities.

One of CEELI's main goals was to promote the clinical programs' long-term sustainability, and the best alternatives toward that end are their adoption as official electives or facultative courses at the law faculties. CEELI sponsored a meeting of all four law faculties in October 2003 and had them present their programs to the Ministry of Justice and a representative from the Supreme Court. The Ministry of Science and Technology (MST), the ministry responsible for funding the law faculties, declined the invitation. However, after the meeting, both the MOJ and the Supreme Court forwarded letters of support for state funding of the law clinics to the MST. The MST responded to the letter stating that it was the responsibility of the law faculties themselves to submit request for funding. The issue was pending as of the close of CEELI's grant.

The Rijeka and Split law clinics are well subscribed and funded, and appear therefore to be sustainable in the medium-term. The Osijek clinic will also continue but may have to be curtailed if resources become unavailable. The Zagreb clinic is too new to tell if it is sustainable, but it too may suffer from lack of resources. The long-term sustainability of each of the clinics will depend on support from the MST for funding and incorporation into the curriculum of the law faculties. CEELI respectfully recommends that USAID, if feasible, pursue follow-up activities in this area that would promote a more supportive stance by the MST.

### **Rijeka**

The Rijeka criminal law clinic was new in the fall of 2001 and focused initially on courtroom advocacy skills and expanded to externships.

With CEELI's assistance the Rijeka civil law clinic focused on elite fourth year students who, among other things, worked in the first live student clinic established in Croatia. The student clinic assists other students (the clients) in real student-related problems such as insurance, class credits and finance. While the clinic is not able to represent the students in court, the clinic is able to research issues and provide useful information and advice to the "clients". This program is a great step forward in clinical training as the students learn, first-hand, what it means to be responsible for resolving someone else's legal problems.

A CEELI assessment of the Rijeka program in spring 2002 indicated it possessed the following positive elements:

- The program is well established; sustainability is not a concern;
- strong field placements;
- creative development and use of hypotheticals;
- requirement that students keep journals and prepare case files;
- strong student, faculty, and administrative support.

Suggestions for improvement included:

- developing a manual for student use;
- giving all students in the program exposure to advocacy skills;
- giving students more meaningful assignments at their field placement sites;
- implementing of a criminal clinic;
- increasing the number of students enrolled in the program.



### **Osijek**

CEELI provided technical and financial assistance to the Law Faculty in Osijek to start a new criminal law clinical in November 2001. The program was to reach most fourth year law students and provide practical training in matters of criminal law as well as provide them externships in the community.

The assessment of the Osijek program in spring 2002 indicated it possessed the following positive elements:

- all fourth-year students participate; students are all exposed to prosecution, defense, and judicial aspects of criminal law;
- strong, experienced field placements;
- good simulation and small group components that allows all students to participate.

Suggestions for improvement include:

- expanding students' clinical experience to longer than one month/thirty hours each;
- developing an introductory pre-placement seminar for all students;
- recruiting some women mentors;
- developing mentor training materials;
- developing (or adopting) a student manual;
- identifying or creating a clinic office for students to use.

### **Split**

At the law faculty in Split, CEELI provided technical and financial assistance to expand its existing criminal law clinic to serve all third year law students and a select number of fourth year students. The Split criminal law clinic also produced a handbook on criminal law for its students that was distributed to the other law faculties for use.

The assessment of the Split program in spring 2002 indicated it possessed the following positive elements:

- all third-year students receive a full year of clinical exposure;
- a large number of professors are involved in the program;
- students receive in-depth exposure to one part of the criminal justice system;
- strong, diverse mentor pool.

Suggestions for improvement include:

- developing more consistency in experience which individual students receive;
- developing a method to give students exposure to more than one aspect of the criminal system;
- updating the student manual;
- hiring of a computer consultant to create systems to decrease the amount of administrative time required;
- decreasing or solving the attrition rate for fourth-year students.

### **Zagreb**

In early 2003, the Zagreb Law Faculty finally instituted a law clinic. Zagreb is considered to be the most influential of the law faculties. Its institution of a clinical program bodes well for achieving funding from the MST for it and the others.

## **E. Alternative Dispute Resolution**

### *Proposal Objectives:*

- 1) To educate key constituencies about ADR; and
- 2) To improve court efficiency through the introduction of ADR procedures.

### *Accomplishments:*

#### **ADR Assessment**

In fall 2000, CEELI completed a comprehensive ADR assessment, which determined that the environment was ripe to begin slowly introducing ADR into the Croatian legal system.

In October 2001, the Sabor adopted an Arbitration Law for Croatia, expanding the possibility for ADR. Shortly thereafter, CEELI gave a presentation on ADR to an ACJ-sponsored conference of more than 700 attendees. Following these events, the Croatian Bar Association (CBA) and CEELI developed an informal training on ADR for attorneys. After receiving the training the attorneys were asked to sign a pledge that they would attempt to settle cases prior to litigation. For the CBA's "Croatian Lawyers Days" in March 2002, CEELI convinced the CBA to make ADR the theme and to publicize the pledge. The President of the CBA announced at the event that the CBA would offer the branch office facilities free of charge as a neutral settlement venue.

#### **Training**

As part of this awareness-raising, former liaison and country director Steve Austermiller researched and wrote a law review article on ADR for the CBA's Law Journal. Additionally, CEELI developed an ADR training that, beginning in 2002, it delivered to Croatian lawyers.

In early 2004, CEELI supported a short seminar for select judges at the Zagreb municipal court to encourage judges to refer cases to mediation and to demonstrate the procedures that a judge would follow to refer a case to mediation.

## **F. Court Public Information**

### *Proposal Objective:*

- 1) To help the public participate in court proceedings in a more efficient and cooperative manner.

### *Accomplishments:*

In April 2003, CEELI completed draft brochures providing user-friendly information on the courts to the public. A total of eight different brochures were completed -- three civil, three criminal and two misdemeanor documents. The brochures are each three-page, two-color drafts. CEELI forwarded the drafts to judges for review and received a number of excellent comments and suggestions. After a painstaking process of securing approval from various segments of the Croatian legal community, CEELI finally published and distributed the brochures to the courts in spring 2004. The final impact of these brochures has yet to be determined, but it is hoped that they will help increase courtroom efficiency by educating the public about their rights and responsibilities in judicial proceedings.

## **G. Judicial Reform through NGOs**

### *Proposal Objectives:*

- 1) To educate key NGOs about the need to work together on judicial reform;
- 2) To assist in the creation of a judicial reform network consisting of local NGOs; and
- 3) To potentially assist local actors/NGOs in specific projects that are deemed appropriate.

### *Accomplishments*

In spring 2003, CEELI helped foster the organization of a consortium of Croatian NGOs with the shared goals of promoting judicial reform in Croatia.

In November 2003, the NGO network polled Croatian political parties on their positions on important legal reform issues in advance of recent national elections. The results were announced at a press conference and published in two major national newspapers just prior to the election. This effort was designed to inform the Croatian electorate and to promote accountability of political parties on legal reform issues. CEELI and the network also launched a new website to be used as a forum for information and discussion on legal reform issues ([www.legalis.hr](http://www.legalis.hr)).

CEELI met with several NGO coalition members to discuss sustainability issues in spring 2004. CEELI prepared a short charter for members of the coalition that will take responsibility for Legalis website after the end of the grant. After several meetings, it was agreed that the Human Rights Center in cooperation with several other NGOs in the coalition would take responsibility for further use and development of the Legalis website. The Human Rights Center has expressed a strong interest in the website and is one of the NGOs in the coalition that is most likely to work with other NGOs cooperatively to use and further develop this resource. As part of this proposed charter, this group will commit to analyze whether the government has complied with the campaign promises on judicial reform issues it made in response to the pre-election survey conducted by the coalition, and to then publish this analysis to promote accountability on legal reform issues.

## **H. Other**

Although USAID has discontinued funding of CEELI's rule of law programming in Croatia, the CEELI RIBA program will continue to support select local partners, addressing their institution-building needs. Additionally, CEELI will continue to support Croatia's anti-corruption efforts through its regional programming in support of the Stability Pact Anti-corruption Initiative.